

## Message Text

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13

ORIGIN EB-11

INFO OCT-01 NEA-14 ISO-00 L-03 FEA-02 COME-00 CAB-09

CIAE-00 DODE-00 DOTE-00 INR-11 NSAE-00 RSC-01 FAA-00

/052 R

DRAFTED BY EB/OA/AVP:JCOOK:GL

APPROVED BY EB/OA/AVP:DBORTMAN

L/EB -MR. GAITHER

NEA/IAI - MR. BIZIC

FEA-MR. GOODWIN

DOC - MR. JOHNSON

EB/OA/AN - MR. STYLES

----- 028331

R 172213Z JUL 74

FM SECSTATE WASHDC

TO AMEMBASSY TEL AVIV

UNCLAS STATE 154922

E.O. 11652: N/A

TAGS: ETRN, IS

SUBJ : ISRAELI FUEL

REF: TEL AVIV 3566; STATE A-4324

1. BASED ON FACTS CONTAINED IN REFERENCED MESSAGES, DEPT BELIEVES THAT A REPRESENTATION TO GOI SHOULD BE INITIATED IN MANNER DEEMED APPROPRIATE BY POST TO PROTEST FUEL TAX REPORTEDLY PAID BY TWA AND OBTAIN EXEMPTION FOR TWA SIMILAR TO THAT ENJOYED BY EL AL IN US. EMBASSY SHOULD DRAW ON FOLLOWING ARGUMENTS IN ITS PRESENTATION TO GOI AUTHORITIES:

A. UNDER SECTIONS 309 AND 317 OF THE US TARIFF ACT OF 1930 AND SECTION 4221 OF THE INTERNAL REVENUE CODE, AIRCRAFT OF FOREIGN REGISTRY ARE EXEMPTED FROM THE PAYMENT OF CUSTOMS DUTIES AND INTERNAL REVENUE TAXES ON SUPPLIES, INCLUDING FUEL AND LUBRICANTS PROCURED IN THE US DOMESTIC

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MARKET FOR USE BY SUCH AIRCRAFT IN THEIR OPERATIONS TO AND

FROM THE US. THIS EXEMPTION IS CONDITIONED ON A FINDING OF RECIPROCITY BY THE SECRETARY OF COMMERCE. ISRAEL HAS BEEN LISTED AS GRANTING FULL RECIPROCAL TREATMENT TO US AIRLINES SINCE 1951. FYI WHILE DEPT IS UNWILLING TO IMPLY THAT EL AL FUEL TAX EXEMPTION IS IN IMMEDIATE JEOPARDY, IT SHOULD BE POINTED OUT THAT A FORMAL COMPLAINT BY AN AGGRIEVED US CARRIER COULD FORCE THE DOC TO

RECONSIDER ITS FINDING OF RECIPROCITY. END FYI.

B. SECTION 211.145 (B) OF THE FEDERAL ENERGY ADMINISTRATION REGULATIONS PROVIDES "AVIATION FUEL FOR INTERNATIONAL FLIGHTS SHALL BE ALLOCATED ON A NON DISCRIMINATORY BASIS AMONG INTERNATIONAL CARRIERS, SUBJECT TO MODIFICATION FOLLOWING CONSULTATIONS WITH APPROPRIATE FEDERAL AGENCIES ON A CASE BY CASE BASIS IF REQUIRED TO ENCOURAGE RECIPROCAL NON DISCRIMINATORY ALLOCATION OF AVIATION FUEL FOR US CARRIERS ENGAGED IN INTERNATIONAL FLIGHTS." FEA ADVISES THAT THIS PROVISION WAS INTENDED TO ALLOW ADJUSTMENTS IN ALLOCATIONS TO AN INTERNATIONAL AIR CARRIER IF THAT CARRIER'S COUNTRY DISCRIMINATES AGAINST US CARRIERS ABROAD. THE PROVISION CAN BE INVOKED UPON PETITION BY AN AGGRIEVED US CARRIER, ANOTHER US GOVERNMENT AGENCY OR BY FEA ON ITS OWN INITIATIVE AFTER CONSULTING APPROPRIATE US AGENCIES. THIS APPLIES ONLY TO DOMESTIC FUEL SOLD IN US BUT NOT TO BONDED FUEL SUPPLIES. OUR INFORMATION INDICATES EL AL IS NOT PURCHASING DOMESTIC FUEL, BUT IS OBTAINING ITS FUEL IN BONDED MARKET. FEA REGULATIONS ALLOW INTERNATIONAL CARRIERS TO PURCHASE CHEAPER DOMESTIC FUEL AND EL AL MAY WISH TO TAKE ADVANTAGE OF THIS PROVISION OF REGULATIONS AT SOME FUTURE DATE.

C. IN ADDITION TO THE ABOVE US LAWS AND REGULATIONS, DEPT'S VIEW IS THAT REPORTED ISRAELI TAX REGIME AS APPLIED TO TWA, IS A DISCRIMINATORY PRACTICE IN VIOLATION OF THE GENERAL PROVISIONS OF ARTICLE IV OF OUR BILATERAL AGREEMENT ON AIR TRANSPORT SERVICES WHICH CALLS FOR EQUALITY OF TREATMENT BETWEEN CARRIERS OF THE RESPECTIVE PARTIES, AND OF THE FAIR AND EQUAL OPPORTUNITY PROVISIONS OF SECTION VI OF THE ANNEX.

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2. EMBASSY IS REQUESTED TO MAKE PROTEST TO GOI  
DRAWING ON FACTS IN REFTEL AND THREE POINTS OUTLINED IN  
PARA. 1. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** CIVIL AVIATION, JET FUEL, TAXES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 17 JUL 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
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**Executive Order:** N/A  
**Errors:** N/A  
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**Original Handling Restrictions:** n/a  
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**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
**Reference:** TEL AVIV 3566; STATE A-4324  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** izenbei0  
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**Review Content Flags:**  
**Review Date:** 21 OCT 2002  
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**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** : ISRAELI FUEL  
**TAGS:** ETRN, IS, TWA, EL AL AIRLINES  
**To:** TEL AVIV  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005